

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2014-000974-001 DT

08/22/2014

HONORABLE KAREN A. MULLINS

CLERK OF THE COURT
N. McKinney
Deputy

STATE OF ARIZONA

MITCHELL S EISENBERG

v.

MATTHEW STEPHEN MCIVER (001)
DOB: 11/3/1976

DWANE M CATES

APO-SENTENCINGS-CCC
APPEALS-CCC
AZ DOC
DISPOSITION CLERK-CSC
RFR

SENTENCE - IMPRISONMENT AND PROBATION

10:53 a.m.

Courtroom CCB 1303

State's Attorney:	Mitchell Eisenberg
Defendant's Attorney:	Dwane Cates
Defendant:	Present

Court Reporter, Jennifer Pancratz, is present.

A record of the proceeding is also made by audio and/or videotape.

Elaine McIver addresses the Court.

Macy McIver addresses the Court.

Count(s) 1 and 2: WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of guilty.

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IT IS THE JUDGMENT of the Court Defendant is guilty of the following:

OFFENSE: Count 1 (as amended) Manslaughter
Class 2 Felony
A.R.S. § 13-1101, 13-1103, 13-701, 13-702, 13-105, 13-801
Date of Offense: 8/13/2013
Non Dangerous - Non Repetitive

OFFENSE: Count 2 Leaving Scene of a Fatality Injury Accident
Class 2 Felony
A.R.S. § 28-661, 28-663, 28-3001, 28-3304, 28-3305, 28-3315, 13-701, 13-702, 13-801
Date of Offense: 8/13/2013
Non Dangerous - Non Repetitive

AS PUNISHMENT, IT IS ORDERED Defendant is sentenced to a term of imprisonment and is committed to the Arizona Department of Corrections as follows:

Count 1: 5 year(s) from 8/22/2014
Presentence Incarceration Credit: 367 day(s)
Presumptive

Pursuant to A.R.S. § 28-3304, Defendant's driving privilege shall be revoked.

Community Supervision: Count 1 - Waived pursuant to A.R.S. § 13-603(K), due to the term of probation in Count 2.

In the event the Defendant is released by the Department of Corrections on a temporary release basis, and a term of Community Supervision has been waived, the length of probation shall be extended to include the time of Defendant's temporary release, pursuant to A.R.S. §13-901(B).

The Court is suspending imposition or execution of sentence and, under the supervision of the Adult Probation Department (APD), placing the Defendant on probation for:

Count 2 Probation Term: 4 years

Upon absolute discharge from prison for a separate offense in Count 1.

Conditions of probation include the following:

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Condition 6: Report to the APD within 72 hours of sentencing, absolute discharge from prison, release from incarceration, or residential treatment and continue to report as directed. Keep APD advised of progress toward case plan goals and comply with any written directive of the APD to enforce compliance with the conditions of probation. Provide DNA testing if required by law.

Condition 8 - Request and obtain written permission of the APD prior to leaving the state.

Condition 15: Restitution, Fines and Fees:

PROBATION SERVICE FEE: Count 2 - \$65.00 per month.

PROBATION SURCHARGE: Count 2 - \$20.00.

Payment to commence on a date to be determined and is due on the same day of each month thereafter until paid in full.

Defendant shall pay restitution in an amount not to exceed \$5,000,000.00 to all victims for all economic losses, regardless if a count is amended, modified or dismissed, as described in Mesa Police Department Report DR#2013-2250679, and any supplements. The Court retains jurisdiction over restitution until completion of probation. Defendant's presence is waived for any future restitution hearing.

The Arizona Department of Corrections shall notify the Clerk of the Court of Maricopa County of Defendant's release from custody via e-mail cforeponse@mail.maricopa.gov. The Clerk of the Court, upon said notification, shall furnish financial information for a Criminal Restitution Order for Judicial signature for any unpaid monies to date.

Condition 16 - Not consume or possess any substances containing alcohol.

Condition 19: Not have any contact with the victim(s) in any form, unless approved in writing by the APD.

Condition 22: Other – 1st year of probation: 2 hours week drug education or treatment.
2nd year of probation: 1 hour week drug education or treatment.
(AA qualifies).

IT IS FURTHER ORDERED that Defendant shall submit to fingerprint identification processing by the Maricopa County Sheriff's Office if directed to do so by the Adult Probation

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Department. The Adult Probation Department shall direct any Defendant placed on probation who has not already had a State Identification Number (SID) established to submit to fingerprint processing.

Defendant is advised pursuant to A.R.S. § 13-805 that failure to maintain contact with the Probation Department may result in the issuance of:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.
2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

IT IS ORDERED granting the Motion to Dismiss the following: Allegation of dangerous nature of offense.

Count(s) 1: IT IS ORDERED authorizing the Maricopa County Sheriff to deliver Defendant to the Arizona Department of Corrections.

IT IS ORDERED the Clerk of the Superior Court remit to the Arizona Department of Corrections a copy of this Order or the Order of Confinement together with all presentence reports, probation violation reports, and medical and psychological reports that are not sealed in this cause relating to the Defendant.

Count(s) 2: IT IS FURTHER ORDERED Defendant be released from custody for this count only.

IT IS FURTHER ORDERED that Defendant must submit to DNA testing for law enforcement identification purposes in accordance with A.R.S. §13-610.

11:30 a.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.

ISSUED: Order of Confinement - Certified Copy to DOC via MCSO

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Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.

/s/ HONORABLE KAREN A. MULLINS
JUDGE OF THE SUPERIOR COURT

(right index fingerprint)